GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – Appeal Petition filed by Sri Parabathina Jawaharlal, S/o Luthar Binni @ Venkaiah, R/o Prakasam District, against the proceedings No.Rc.C4/558/2007, dated 06.06.2008 of the District Collector, Prakasam, under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE (TW.CV.2) DEPARTMENT

G.O.MS.No. 99 Dated: 02-07-2018
Read the following:

1. Proceedings of the District Collector, Prakasam, No.Rc.C4/558/2007, dt. 06.06.2008.
2. Appeal petition filed by Sri Parabathina Jawaharlal S/o Luther Binny, Chirala, Prakasam District, dt:03.07.2008.
3. Govt.Memo.No.5447/CV2/2008, dated 24.07.2008.
4. From the District Collector, Prakasam District, Lr.No. Rc.C4/992/2008, dated 23.09.2010.
5. Govt.Memo.No.5447/CV2/2008, dt: 31.03.2012, 26.08.2015 & 01.05.2018.

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ORDER:

In the reference 1st read above, the District Collector, Prakasam has issued orders cancelling ST-Konda Kapu caste certificate obtained from the then Mandal Revenue Officer, Chirala in the year 1993 by Sri Parabathina Jawaharlal, S/o Luthar Binni @ Venkaiah.

2. In the reference 2nd read above, Sri Parabathina Jawaharlal, S/o Luthar Binni @ Venkaiah, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, Prakasam. After examining the said Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Prakasam in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, Prakasam has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Parabathina Jawaharlal, S/o Luthar Binni @ Venkaiah.

4. The said Appeal Petition has been posted for hearing on 10.04.2012, 19.09.2015 & finally on 19.05.2018 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant & brother of the appellant have attended the hearing on 19.05.2018 and argued the case before the Appellate Authority.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Prakasam and proceedings of the District Collector, Prakasam dated 06.06.2008, the Appellate Authority is observed that :

I. The appellant in his grounds has stated that the appellant's family and his relatives both maternal and paternal side were recognized as ST-Konda Kapu. Further he has stated that his grandfather Anka Dora migrated from Palakonda village of Srikakulam District to Perala village about 90 years

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back. The father of the appellant i.e. Benni @ Venkaiah married with Taharunnisa, (Muslim Woman) and blessed with six children. Further he has also stated that the respondents conducted the local enquiry behind the back of the appellant and the respondent have not given any opportunity to him for produce the documents in support of his community claim.

II. The District Level Scrutiny Committee has observed that Tahsildar, Chirala has reported that Sri Parabathina Jawahar lal and Motilal sons of Luther Benny are brothers, they are migrated from Yedlurupadu (V) of Jarugumalli Mandal of Prakasam District and their original caste have to be enquired at Yedlurupadu Village. The appellant submitted some Photostat copies of caste certificates issued to his family members, and their School TCs and his father's extract of school Admission Register, of N.R. & P Municipal High School, Chirala only, in support of his caste claim. The Dy. Superintendent of Police, CID, RCIU, Guntur is a member of DLSC has reported that, after observation of the Original Admission particulars of P.Luther Benny are entered in vide SL.No.3486, all the particulars except 'Kondakapu' were written with one ink pen, where as the ink used to write Konda kapu is different from the ink used to write all other contents. It can be seen through naked eye to some extent and further reported that, the document is analyzed by Forensic SCIENCE Laboratory, Hyderabad.The Tahsildar, Jarugumalli has categorically reported that, Parabathina Ankaiah S/o Ramaiah had resided in the village 60 to 70 years ago, and his family left the village for livelihood and also stated that whose surname is Parabathina living in Yedlurupadu village, and verified the Birth and Death Register having surname Parabathina belong to Hindu Mala community. The appellant's father Parabathina Luther Benny alias Venkaiah stated that before the Tahsildar, Chirala on 10.5.2007, his father married at Yedlurupadu village with 'Mala' caste lady and the appellant family have marital relations with other community people. The committee has given opportunity to produce evidence in support of his claim, he produced only his family members caste certificate issued by the MRO, Chirala and extract of the register of Admissions of NRP Municipal High School, Chirala. The MRO is not competent to issue 'Kond Kapu' caste ST certificate in non-Scheduled areas. Based on the findings of the DLSC, the District Collector has cancelled the appellant's cast certificate.

III. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

IV. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that his father belongs to Konda Kapu Community as per his school records and his relatives both maternal and paternal side are Konda Kapu and as such he also belongs to Konda Kapu Community. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed, for appreciation of the case of the appellant and he failed to produce any evidence that his father belongs to ST Community and further noticed as per the report of Forensic Science Laboratory, Hyderabad the school record of the father of the appellant the admission particulars with regard to the caste is tampered and there is no evidence that the maternal and paternal side relatives of the appellant are Konda Kapu. It is further brought to the notice that the certificate earlier issued to the individual in a routine manner and the same was cancelled after conducting detailed and thorough enquiry into the caste status of the

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individual. That as per the Act 16/1993, the burden of proof lies on the appellant, thus it is the responsibility of the appellant to produce necessary evidence and documents to claim the same. In the instant case that the appellant except relaying the evidence filed before the lower authority failed to produce any additional material more particularly the evidence of his father caste and his relatives' caste for re- appreciation of the case on hand. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the learned District Collector, Prakasam District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference .

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No.16 of 1993), decide that the appeal petition filed by Sri Parabathina Jawaharlal, S/o Luthar Binni @ Venkaiah, does not deserve any interference. Hence, Proceedings of the District Collector, Prakasam issued vide Rc.C4/558/2007, dated 06.06.2008, is hereby upheld and the Appeal Petition filed by Sri Parabathina Jawaharlal, S/o Luthar Binni @ Venkaiah, is hereby dismissed and the Certificate issued by the then Mandal Revenue Officer, Chirala is deemed to be cancelled .

7. The District Collector, Prakasam is directed to take necessary consequential action in the matter.

8. The records (containing Rc.C4/558/2007, dated 01.11.2008, NF 17 pages & CF-264 pages) received from the District Collector, Prakasam through in the reference 4th read above, are returned herewith in original to the District Collector, Prakasam and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Prakasam.
(with original records) (BY RPAD)

The MRO, Chirala. Prakasam District.

Sri Parabathina Jawaharlal S/o Luther Benny,
R/o Ramakrishnapuram (V),
Chirala(M), Prakasam District.

Sri Bommaraju Adinarayana, Advocate,
R/o 8-13/2, Mythri Nagar, Konark Theatre Road,
Dilsukhnagar, Hyderabad-500004.

Copy to :
The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE & TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER